

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

VINCENT MERCADO,

Plaintiff,

v.

RAMON CULVER, K.L. BREEDEN &  
SONS, LLC D/B/A KLB SONS, and  
NATIONWIDE AGRIBUSINESS  
INSURANCE COMPANY.,

Defendants.

CIVIL ACTION FILE  
NO.

**PETITION FOR REMOVAL**

COME NOW defendants, Ramon Culver (“Culver”), K.L. Breeden & Sons, LLC d/b/a KLB Sons (“KLB”), and Nationwide Agribusiness Insurance Company (“Nationwide”) (collectively “defendants” or “these defendants”) by and through counsel, and by way of special appearance, without waiving but specifically reserving all jurisdictional defenses available to them, and hereby file this Petition for Removal of the above-styled action to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

1.

Plaintiff initiated this action in the State Court of Fulton County, Georgia, where it was styled *Vincent Mercado vs. Ramon Culver, K.L. Breeden & Sons, LLC d/b/a KLB Sons, and Nationwide Agribusiness Insurance Company*, Civil Action Number 23EV003785. (Exhibit A, all State Court processes, pleadings and orders).

2.

In its response to defendants' First Requests for Admissions (request for admissions), Plaintiff admitted that the amount in controversy in this case exceeds \$75,000, exclusive of interest and costs, thereby satisfying the amount in controversy for federal court jurisdiction under 28 U.S.C. § 1332(a). (Exhibit B, Plaintiff's Response to Defendants' First Request for Admissions, response to request number 2).

3.

Plaintiff served his responses to the request for admission on these defendants on August 16, 2023. As such, this petition is timely. *See* 28 U.S.C. § 1446(b)(3).

4.

Plaintiff has been a citizen of New York continuously since April 8, 2023, and (Exhibit B, responses to request number 1).

5.

Culver is a resident and citizen of the state of Florida (Exhibit A, Answer of Defendants)

6.

KLB is a foreign limited liability company registered in the State of Texas, with its principal place of business located at 104 W. High Street, Terrell, Texas 75160. KLB has one sole member, KLB Sons Holdings, of which the managers are Wynne Breeden and David Breeden, whose address is P.O. Box 794, Terrell, Texas, 75160 (Exhibit C).

7.

Nationwide is foreign insurance company incorporated in Iowa, with a principal place of business located at 11100 Locust Street, Des Moines, Iowa, 50391 and is therefore a citizen of Iowa (Exhibit D).

8.

There is complete diversity of citizenship between plaintiff and all defendants.

9.

All named defendants have consented in the removal to federal court and plaintiff has indicated he has no objection to removal.

10.

Because this action was brought in the State Court of Fulton County, it is properly removed to the Atlanta Division of the United States District Court for the Northern District of Georgia, pursuant to 28 U.S.C. §§ 1441(a) and 1446.

11.

These defendants filed with the Clerk of Court for the State Court of Fulton County a Notice of Filing Petition for Removal pursuant to 28 U.S.C. § 1446(d), attached hereto as Exhibit E.

WHEREFORE, these defendants request that this Court allow the removal of this action to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted this 12<sup>th</sup> day of September, 2023.

**FREEMAN MATHIS & GARY, LLP**

/s/ Wayne S. Melnick

WAYNE S MELNICK

Georgia Bar No. 501267

[wmelnick@fmglaw.com](mailto:wmelnick@fmglaw.com)

/s/ Aaron P. Miller

Aaron P. Miller

Georgia Bar No. 898190

[amiller@fmglaw.com](mailto:amiller@fmglaw.com)

*Attorneys for Defendants*

100 Galleria Parkway, Suite 1600  
Atlanta, GA 30339-5948  
(770) 818-0000 (telephone)

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day electronically submitted the foregoing *PETITION FOR REMOVAL* to the Clerk of Court using the *CM/ECF* filing system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants. Counsel of record are:

Leland M. Malchow  
Chris C. Johnson  
Nimmons Malchow Johnson  
460 Greene Street  
Augusta, Georgia 30901

This 12<sup>th</sup> day of September, 2023.

**FREEMAN MATHIS & GARY, LLP**

/s/ Wayne S. Melnick

Wayne S. Melnick

Georgia Bar No. 501267

[wmelnick@fmglaw.com](mailto:wmelnick@fmglaw.com)

Aaron P. Miller

Georgia Bar No. 898190

[amiller@fmglaw.com](mailto:amiller@fmglaw.com)

*Attorneys for Defendants*

100 Galleria Parkway, Suite 1600  
Atlanta, Georgia 30339  
(770) 818-0000 (telephone)  
(770) 937-9960 (facsimile)